

NO. 94970-1

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**SUPREME COURT OF THE  
STATE OF WASHINGTON**

In Re the Dependency of S.K-P.

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**INTERVENOR PIERCE COUNTY'S ANSWER TO MOTION FOR  
DISCRETIONARY REVIEW**

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**A. IDENTITY OF RESPONDENT**

The Respondent, Intervenor Pierce County, as represented by Mark Lindquist, Pierce County Prosecuting Attorney, and his undersigned Deputy Prosecuting Attorney, Alicia Burton, asks this Court to deny discretionary review of the decision designated in Part B of this Answer.

Pierce County intervened in the trial proceedings below for the limited purpose of providing evidence relevant to the court's consideration of the *Mathews v. Eldridge* [424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976)], factors; specifically, the third factor – governmental financial interest. Based on the County's limited involvement in the initial proceedings and because the trial court's application of the *Mathews* factors to S.K-P.'s particular case was not an issue on appeal, Pierce County's participation at the Court of Appeals was very limited in scope. Pierce County relied largely on the legal arguments of DSHS.

Pursuant to RAP 10.1(g), Pierce County again incorporates by reference and adopts the legal arguments of DSHS, as set forth in DSHS' Answer to Motion for Discretionary Review, filed with this Court on October 9, 2017.

**B. DECISION OF THE TRIAL COURT**

Petitioner seeks review of the published opinion filed on August 8, 2017, by the Court of Appeals, Division II, in the case of *In the Matter of*

*the Dependency of S.K-P.*, No. 48299-1-II, attached as Appendix A to Petitioner's Motion.

**C. ISSUES PRESENTED FOR REVIEW**

1. Has Petitioner failed to show that the Court of Appeals decision raises a significant question of law under the Constitution of the State of Washington?

2. Has Petitioner failed to show that the Court of Appeals decision raises a significant question of law under the Constitution of the United States?

3. Has Petitioner failed to show that the issue of appointment of counsel for all dependent youth is an issue of substantial public interest that should be determined by the Supreme Court?

**D. STATEMENT OF THE CASE**

For purposes of this motion, Pierce County accepts the statement of the case as set forth in Petitioner's motion for discretionary review.

**E. ARGUMENT WHY REVIEW SHOULD NOT BE GRANTED**

**1. Petitioner Fails to Establish That the Decision Below Involves an Issue of Substantial Public Interest or a Significant Question of Law Under the Washington State or U.S. Constitution, Which Would Justify Review Pursuant to RAP 13.4(b).**

A person seeking the grant of review must demonstrate that her case meets the criteria under RAP 13.4(b). The rule provides:

**(b) Considerations Governing Acceptance of Review.** A petition for review will be accepted by the Supreme Court only:

- 1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- 2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- 3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- 4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b). Petitioner, relying on RAP 13.4(b)(3) and (4), claims that the Court of Appeals' decision presents a significant question of law under both the state and federal Constitutions and that the issue of appointed counsel for all youth involved in dependency proceedings is an issue of substantial public interest meriting review. *See* Petitioner's Brief at 3. Petitioner fails to show that review is merited under either prong of RAP 13.4(b).

Petitioner's motion for discretionary review should be denied for the reasons set forth in DSHS' Answer to Motion for Discretionary Review, filed with this Court on October 9, 2017. Pursuant to RAP 10.1(g)(2), Pierce County incorporates and adopts by reference the legal arguments of DSHS, as set forth in their answer.<sup>1</sup>

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<sup>1</sup> Pierce County intervened in the underlying dependency action for the limited purpose of providing evidence on the third *Mathews* factor – government interests – that the cost to the County would increase and additional administrative resources would be expended if an attorney was appointed for SK-P, and most certainly if the court appointed attorneys in all dependency cases.

**F. CONCLUSION**

The criterion for review under RAP 13.4(b) requires a petitioner to show that there is a significant question of law under state or federal constitutional law or an issue of substantial public interest. For the reasons set forth in DSHS' Answer to Motion for Discretionary Review, Petitioner fails to make the necessary showing under either alternative. Accordingly, Respondent Pierce County respectfully requests this Court deny Petitioner's motion for discretionary review.

DATED this 9th day of October, 2017.

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s/ ALICIA M. BURTON  
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### **CERTIFICATE OF SERVICE**

On October 9, 2017, I hereby certify that I electronically filed the foregoing INTERVENOR PIERCE COUNTY'S ANSWER TO MOTION FOR DISCRETIONARY REVIEW with the Clerk of the Court, which will send notification of such filing to the following:

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**October 09, 2017 - 9:52 AM**

**Transmittal Information**

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